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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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7590 10/11/2006

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EXAMINER

ABBOTT, YVONNE RENEE

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 3644 | |

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/512,011

Applicant(s)

BOSMA ET AL.

Examiner

Yvonne R. Abbott

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3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,9,11-14,17-19,21,22 and 24-30 is/are rejected.
- 7) ☒ Claim(s) 3-8,10,15,16,20 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 1/3/05, 5/5/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicants' arguments regarding the restriction requirement of 6/8/06 are considered persuasive. Thus all claims 1-30 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 13, 14, 17, 22,24,25, 28 and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Hakes (6,694,830). Hakes discloses a method and device for sampling of milk from an animal, the milk of which is to be tested, wherein the device comprises a collecting member arranged to receive milk samples from a milk line, which is arranged to transport milk from one animal at a time; and a passage arranged to allow a milk flow from the milk line to the collecting member; wherein the device further comprises flow means arranged to provide a milk flow, from the animal, through at least a part of the passage at least a time period before a milk sample is taken in

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order to rinse at least said part of the passage from milk residues from a previously milked animal; wherein the device comprises an analyzing device to provide a count of somatic cells, fat droplets, and combinations thereof; wherein the device is connected to a milk line, which constitutes a part of an automatically controlled arrangement for milking; wherein the device comprises a control unit to control the sampling process; and wherein the device is capable of extract milk from one teat at a time.

4. Claims 1, 2, 9, 11, 12, 17-19,21,24-29 are rejected under 35 U.S.C. 102(b) as being anticipated by van der Lely et al. (5,957,081). Van der Lely discloses a method and device for sampling of milk from an animal, the milk of which is to be tested, wherein the device comprises a collecting member (29) arranged to receive milk samples from a milk line, which is arranged to transport milk from one animal at a time; and a passage arranged to allow a milk flow from the milk line to the collecting member; wherein the device further comprises flow means arranged to provide a milk flow, from the animal, through at least a part of the passage at least a time period before a milk sample is taken in order to rinse at least said part of the passage from milk residues from a previously milked animal; wherein milk is allowed to flow from a collecting container (12) to the collecting member; wherein a valve (23) is arranged in the milk line; and the milk flow is aided by gravity but is additionally aided by a pump (24); wherein the device comprises a control unit arranged to control the milk sampling process, and activate the flow of milk, and initiate sampling at a certain time after a certain amount of milk has been collected; further comprising a milk flow meter (claim

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3); and wherein the device comprises a milking robot (3); and wherein the device is capable of extract milk from one teat at a time.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hakes in view of Van der Lely. Both Hakes and Van der Lely disclose devices for sampling milk. Hakes teaches analyzing the somatic cells of the sampled milk and Van der Lely teaches the use of a robot. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a milking robot for sampling milk in the Hakes invention as taught by Van der Lely, in order to facilitate easier access to the teats without the operator having to manually perform the sampling especially when many animals need to be sampled by few operators.

Allowable Subject Matter

7. Claims 3-8, 10, 15,16, 20 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

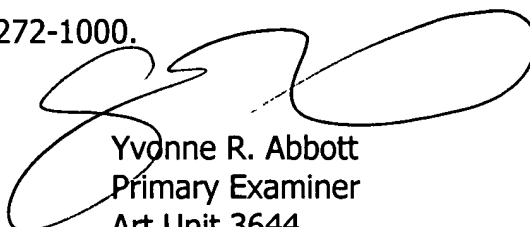
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne R. Abbott whose telephone number is (571)

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272-6896. The examiner can normally be reached on Monday-Thursday 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on (571) 272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Yvonne R. Abbott
Primary Examiner
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